



Signed and Filed: December 20, 2022

Lewis Montali

DENNIS MONTALI
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

In re:) Bankruptcy Case
PG&E CORPORATION,) No. 19-30088-DM
)
) Chapter 11
- and -)
) Jointly Administered
PACIFIC GAS AND ELECTRIC COMPANY,)
)
)
Reorganized Debtors.)
)
)
 Affects PG&E Corporation)
 Affects Pacific Gas and)
 Electric Company)
 Affects both Debtors)
)
)
* All papers shall be filed in)
the Lead Case, No. 19-30088 (DM).)
)

ORDER DENYING MOTIONS TO ALLOW LATE CLAIMS

On November 30 and December 12, 2022, the court held hearings on the following: *Motion to Extend Time Pursuant to Fed. F. Bankr. Pro. 7015 and 7018 to File Proof of Claim Pursuant to Fed. R. Bankr. Pro. 9006(b)(1)* filed by Yuonne Phillips et al (Dkt. 13088); *Motion Pursuant to Fed. R. Bankr. 9006(b)(1) to Deem Justine Larsen-Bernedo's Claim Timely Filed* filed by Justine Larsen-Bernedo (Dkt. 13080); *Motion to File*

1 *Claim After Claims Bar Date* filed by Taryn Scott (Dkt. 13099);
2 *Motion to File Claim After Claims Bar Date* filed by Alexandra
3 Dougherty (Dkt. 13109); *Amended Consolidated Motion to*
4 *Allow/Deem Timely Late Filing of Claimants* filed by Lesa Bushby
5 et al. (Dkt. 13137); *Motion to File Claim After Claims Bar Date*
6 filed by Michael Freeland (Dkt. 13155); *Consolidated Motion to*
7 *Allow/Deem Timely Late Filing of Claimants* filed by Darla
8 O'Connor (Dkt. 13161); and *Motion to Allow/Deem Timely Filing of*
9 *Proof of Claim* filed by Davin and Debbie Abrahamian (Dkt. 13249)
10 (together, the "Late Claim Motions"). The individual claimants'
11 information associated with the Late Claim Motions is attached
12 to this Order as an Exhibit.

13 All movants are Wildfire Claimants, as defined below.
14 While the Fire Victim Trust ("FVT") objected to each of the Late
15 Claim Motions individually (Dkts. 13139; 13131; 13144; 13147;
16 13157; 13246; 13254; 13281) ("Objections"); the court issues
17 this Order addressing all of the Late Claim Motions in the style
18 of an omnibus objection. See Fed. R. Bankr. Pro. 3007(d)(4) and
19 (f). For the reasons explained below, the court sustains the
20 FVT's Objections and denies the Late Claim Motions.

21 **I. History of Claims Bar Date**

22 No claims bar date was set for any creditor at the outset
23 of these bankruptcy cases, which were initiated on January 29,
24 2019. On May 1, 2019, now-Reorganized Debtors PG&E Corporation
25 and Pacific Gas and Electric Company ("Debtors") originally
26 proposed a claims bar date of September 16, 2019 for victims of
27 the wildfires that ravaged various parts of Northern California
28 in 2015, 2017, and 2018 ("Wildfire Claimants") (Dkt. 1784).

1 Debtors also proposed a robust supplemental notice plan starting
2 at least 95 days prior to that bar date to ensure that Wildfire
3 Claimants, many of whom had almost certainly been displaced by
4 the wildfires, would receive notice of the claims bar date.

5 The proposed claims bar date was hotly contested (See
6 objections to the proposed claims bar date at Dkts. 2043, 2238,
7 2239, 2240, 2242, 2248, 2306, 2307, 2308, 2316, 2321, 2324,
8 2326, 2346, 2453), with the Tort Claimants Committee requesting
9 an alternative claims bar date of January 31, 2020. Debtors
10 subsequently amended the proposed claims bar date to October 21,
11 2019.

12 At a hearing on June 26, 2019, the court granted the
13 Debtors' modified claims bar date proposal. The court's Order
14 (Dkt. 2806) establishing the bar date incorporated the Debtors'
15 Revised Notice Procedures that included: mailed notices (as is
16 typical and required in all bankruptcy cases); email notices;
17 notice via a variety of print media publications; online
18 advertisements; social media advertisements; local television
19 and radio advertisements in both English and Spanish; national
20 television advertisements to reach those who may have moved out
21 of state; a dedicated website for Wildfire Claimants; and a
22 toll-free phone number for Wildfire Claimants. This multi-
23 pronged approach targeted, in descending order of intensity of
24 the targeting: those still living in affected areas of Northern
25 California, the rest of California, and the rest of the nation.

26 On November 11, 2019, the court entered the *Order Extending*
27 *Bar Date for Wildfire Claimants and Appointing Claims*
28 *Representative* (Dkt. 4672), extending the bar date specifically

1 for Wildfire Claimants to December 31, 2019, and appointing a
2 Claims Representative to conduct further outreach and assist
3 Wildfire Claimants in filing claims. By the end of the extended
4 claims bar date, 82,692 Wildfire Claimants filed timely proofs
5 of claim.

6 After the extended bar date passed, the FVT took an
7 apparent stance of acquiescence or non-opposition to requests
8 from Wildfire Claimants to allow late claims. In 2020, 55 late
9 claims were filed and were not opposed. In 2021, 22 late claims
10 were filed and were not opposed.

11 This year, the number of late claims has dramatically
12 increased, which, per the FVT's Objections, prompted its
13 response. That response, made in open court and in several
14 filings, was that the FVT would no longer take a liberal non-
15 opposition stance to late claims filed after September 30, 2022,
16 and that "[t]he Trust's policy of non-opposition was never a
17 guarantee that every late claim motion would be unopposed, and
18 the Trustee's statements regarding the need to reconsider that
19 policy were intended to clarify this and alert claimants and
20 counsel to the Trust's transition to stricter review of late
21 claim motions."

22 **II. Discussion**

23 A bankruptcy court may, on motion of a claimant, deem a
24 late claim to be timely filed if the delay "was the result of
25 excusable neglect." Fed. R. Bankr. Pro. 9006(b) (1). The
26 decision regarding whether a late claim was the result of
27 excusable neglect "is at bottom an equitable one, taking account
28 of all relevant circumstances surrounding the party's omission."

1 *Pioneer Inv. Services Co. v. Brunswick Associates Ltd.*
2 *Partnership*, 507 U.S. 380, 395. Some circumstances include "the
3 danger of prejudice to the debtor, the length of the delay and
4 its potential impact on judicial proceedings, the reason for the
5 delay, including whether it was within the reasonable control of
6 the movant, and whether the movant acted in good faith." *Id.*

7 There is no question regarding the good faith of any of the
8 parties who filed the Late Claim Motions. Nor does the court or
9 the FVT doubt the nature and extent of the injuries that have
10 prompted the Late Claim Motions. The proceeding that may be
11 impacted by allowance the late claims is the general
12 administration of the FVT in determining claims and making
13 distributions thereon.

14 The only equitable factors the court considers here are the
15 prejudice to the FVT¹, and whether the delay was in reasonable
16 control of the movants.

17 First, the court finds that granting the Late Claim Motions
18 would prejudice the FVT. According to the FVT, the Trust simply
19 is not fully funded, the stock contributed to the FVT by the
20 Debtors is not performing as well as expected (despite recent
21 increases in value), and there may not be enough money in the
22 Trust to administer 100% payments to Wildfire Claimants who
23 timely filed proofs of claim, let alone those requesting to have
24 their late claims deemed timely now. The FVT may also be

25
26 ¹ The FVT is the representative of each of the Debtors' estates
27 regarding administering, objecting to, and settling the claims
28 of Wildfire Claimants pursuant to the Paragraph 18(e)(iii) of
 the court's Confirmation Order (Dkt. 8053)

1 prejudiced by the additional expenditures of time and effort
2 required of the FVT and its administrators to recalculate the
3 projections and calculations made to ensure an equal pro rata
4 distribution to all Wildfire Claimants, including those already
5 paid. While each of the Late Claim Motions stresses the minimal
6 impact any individual claim may have on the administration of
7 the FVT, the court must balance the equities affecting the FVT
8 as a whole. Taking the Late Claim Motions in the aggregate,
9 combined with the thousands of timely claims, and the
10 discretionary allowance of hundreds of previous late claims
11 unopposed by the FVT, the impact on administration is more than
12 de minimis and would prejudice the FVT.

13 Next, the court finds that no Wildfire Claimant has
14 described circumstances that would explain why the failure to
15 file a claim for over two and a half years constitutes excusable
16 neglect. Almost uniformly, each claimant describes
17 circumstances that amount to a lack of realization that their
18 particular circumstances could be compensated, but not lack of
19 notice regarding the claims bar date, or of the claims process
20 writ large. One claimant outside of Northern California, who
21 claims she "was not indirectly made aware of the POC deadline
22 and obligation prior to the [proof of claim] deadline" fares no
23 differently. That she did not reside in Northern California is
24 not sufficient, as the Debtors engaged in a robust and legally
25 sufficient state and nationwide notice process. Due process
26 requires notice of the opportunity to file a claim. That was
27 provided here and generally to thousands of Wildfire Claimants.
28

1 Due process does not require the awareness of the type of claim
2 that might have been filed.

3 While the *Consolidated Motion to Allow/Deem Timely Late*
4 *Filing of Claimants* (Dkt. 13161) first attempts to argue that
5 all or some of the claimants included in that Motion "received
6 absolutely no notice of their **potential entitlement** to file
7 claims," (emphasis added) that does not mean they did not have
8 notice of the claims process or the claims bar date, only that
9 the claimants believed that they should not file claims for the
10 types of damages they incurred.

11 The Consolidated Motion also asserts that "there was little
12 to no substantial effort by any interested party (the Debtors
13 not the Fire Victims Trust) in this case to alert prospective
14 claimants of their right and entitlement to file a claim - other
15 than third-party advertisements." The court notes that the FVT
16 did not exist prior to confirmation of the Debtors' bankruptcy
17 plan more than six months after the expiration of the claims bar
18 date, and those third-party advertisements were legitimate,
19 court-approved means of providing notice to those Wildfire
20 Claimants who may not have received mail notices, and only some
21 of the means utilized by the Debtors to give notice regarding
22 the bar date and claims process for Wildfire Claimants. The
23 Debtors could not control whether claimants chose not to heed
24 those notices in favor of disinformation, nor was it the
25 Debtors' duty to ensure every known and unknown Wildfire
26 Claimant's full understanding of every type of injury that could
27 be compensated via the proof of claim process. It also does not
28 appear there was a widespread misunderstanding regarding what

1 types of injury could be compensated via a proof of claim: every
2 type of injury described in the Late Claim Motions is listed as
3 a checkbox on the Proof of Claim form for Wildfire Claimants,
4 and were listed as injuries by Wildfire Claimants who timely
5 filed proofs of claim.

6 Finally, the court addresses the argument made by some
7 Wildfire Claimants that the FVT's decision to oppose only late
8 claims, like the Late Claim Motions, filed after September 30,
9 2022 is an arbitrary position and therefore should be
10 disregarded by the court. Such argument has no merit. The
11 discretion of the FVT to object, waive objection via non-action,
12 or stipulate to any motion to allow a late claim is the FVT's
13 alone. Nor is it appropriate for any of the parties to the Late
14 Claim Motions to compare prior motions or orders on those
15 motions. The Late Claims Motions stand or fall on their own.

16 **III. Conclusion**

17 For the reasons stated above, the court hereby SUSTAINS the
18 Objections of the FVT and DENIES the Late Claim Objections. The
19 Late Claim Objections shall not be deemed timely filed and are
20 thus disallowed.

21 ****END OF ORDER****

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23
24
25
26
27
28

1 COURT SERVICE LIST

2 Taryn Skott
3 P.O. Box 6233
4 Santa Rosa, CA 95406

5 Alexandra Dougherty
6 683 Matson Drive
7 Napa, CA 94558

8 Michael Scott Freeland
9 50 Diogenes Drive
10 Angwin, CA 94508

1
2 **EXHIBIT**
3 TO
4 **ORDER DENYING MOTIONS TO ALLOW LATE CLAIMS**

Motion Dkt. No.	Claimant(s)	POC No.	POC Filing Date
13080	Justine Larsen-Bernedo	109629	10/10/22
13088	Rick Hallen et al.	109631	10/11/22
13088	Yuonne Phillips	109633	10/12/22
13116 13137 (Amended)	Joseph Pickett et al.	109638	10/24/22
13116 13137 (Amended)	Lesa Bushby	109656	10/31/22
13099	Taryn Skott	109644	10/26/22
13109	Alexandra Dougherty	109628	10/8/22
13155	Michael Scott Freeland	109634	10/14/22
13161	Greg Windisch et al.	109647	10/28/22
13161	Alan Biggi et al.	109652	10/28/22
13161	Jason Kessler et al.	109651	10/28/22
13161	Jason Wolcott et al.	109653	10/28/22
13161	Justin Richardson et al.	109676	10/28/22
13161	Jonathan Graves et al.	109654	10/28/22
13161	Thomas Jordan et al.	109649	10/28/22
13161	Casey Costello et al.	109650	10/28/22
13161	Eric Negrevski et al.	109665	11/3/22
13161	Chad Moll et al.	109648	10/28/22
13161	Brian Desmond et al.	109633	11/3/22
13161	Michael S. Henderson et al.	109659	10/31/22

Motion Dkt. No.	Claimant(s)	POC No.	POC Filing Date
13161	Christine Fitzpatrick Souza et al.	109658	11/3/22
13161	Scott Bagala et al.	109664	11/3/22
13161	Eric Walton et al.	109669	11/3/22
13161	Vincent Bagala et al.	109662	11/3/22
13161	Cheri Shoultz and Alysse Galde	109661	11/4/22
13161	Brian T. Flahavan et al.	109655	10/28/22
13161	Darla O'Connor	109645	10/27/22
13249	Davin Abrahamian and Debbie Abrahamian	109640	10/26/22